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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,534	07/31/2001	MaKolle Williams	WIL003USPT01	4890

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 04/02/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,534

Applicant(s)

WILLIAMS, MAKOLLE

Examiner

Marc Jimenez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. In view of the appeal brief filed on 12/30/03, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ampian (5,207,755) in view of Cline (365,329).

Regarding claims 1 and 12, Ampian teaches a paint roller comprising: a handle **12** having a first end and a second end, a shaft **14** having a first end and a second end, a functional

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element **22** secured to the second end of the shaft **14**, a flexure joint **10** interposed between and connecting the second end of the handle **12** and the first end of the shaft **14**, whereby the shaft is repositionable relative to the handle between a first locked position and a second locked position.

Ampian teaches the invention cited with the exception of having a spherical member (or attachment means as recited in claim 12), a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position relative to the receiving member.

Cline teaches a handle **H** having a first end and a second end, a shaft **I** having a first end and a second end, a functional element (attached to threads) secured to the second end of the shaft **I**, a flexural joint **D** interposed between and connecting the second end of the handle **H** and the first end of the shaft **I**, which includes a spherical member (or attachment means) **F**, a receiving member **E** configured to maintain and selectively engage the spherical member **F**, and a connector **G** in communication with the receiving member **E** for releasably locking the spherical member **F** in position as between a first locked position and a second locked position relative to the receiving member **E**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Ampian with a spherical member (or attachment means), a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position

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relative to the receiving member, in light of the teachings of Cline, in order to provide better incremental adjustment of the shaft relative to the handle.

Regarding claims 2 and 13, Ampian teaches the that the tube receiving frame **22** is rotatably secured to the second end of the shaft **14**.

Regarding claims 3-11 and 14-28, Cline teaches the particulars of the flexural joint (or attachment means) including: that the spherical member **F** is connected to the first end of the shaft **I** and the receiving member **E** is connected to the second end of the handle **H** as applied to claim 3, the spherical member **F** is connected to the second end of the handle **H** via **C** and the receiving member **E** is connected to the first end of the shaft **I** via **F** and **J** as applied to claim 4, the connector **G** is hand operable for locking and releasing the spherical member **F** as applied to claims 5, 17-20, 22, 24, 26, and 28, the spherical member **F** has a radius, the receiving member **E** has first and second arms **B,C**, the first arm **B** has an inner surface facing the second arm **C** and defines a depression having a circular periphery on the inner surface, the depression has a radius which is smaller than the radius of the spherical member **F**, and the spherical member **F** is sandwiched between the first and second arms **B,C** and centered within the depression through the first flange as applied to claims 6 and 7, the depression in the first arm **B** is an aperture (for **G**) extending completely through the first arm **B** as applied to claims 8 and 9, the connector **G** has a proximal end and a distal end with the distal end, with the distal end slidably extending through a bore in one arm **B** and threadably engaging the other arm **C** so as to prevent passage of the connector **G**, completely through the bore, whereby tightening of the connector pulls the arms together to lock as applied to claims 10 and 11, the shaft **I** can be angularly repositioned relative to the axis of the handle **H** through at least 60 degrees in one direction or at least 120

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degrees in at least one direction as applied to claims 14 and 15, the attachment means is hand operable by turning the connector **G** as applied to claim 16, and the shaft **I** is rotatable 360 degrees relative to the receiving member **E** as applied to claims 21, 23, 25, and 27.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Ampian with the particulars of the flexural joint (or attachment means) including: that the spherical member is connected to the first end of the shaft and the receiving member is connected to the second end of the handle as applied to claim 3, the spherical member is connected to the second end of the handle and the receiving member is connected to the first end of the shaft as applied to claim 4, the connector is hand operable for locking and releasing the spherical member as applied to claims 5, 17-20, 22, 24, 26, and 28, the spherical member has a radius, the receiving member has first and second arms, the first arm has an inner surface facing the second arm and defines a depression having a circular periphery on the inner surface, the depression has a radius which is smaller than the radius of the spherical member, and the spherical member is sandwiched between the first and second arms and centered within the depression through the first flange as applied to claims 6 and 7, the depression in the first arm is an aperture extending completely through the first arm as applied to claims 8 and 9, the connector has a proximal end and a distal end with the distal end, with the distal end slidingly extending through a bore in one arm and threadably engaging the other arm so as to prevent passage of the connector, completely through the bore, whereby tightening of the connector pulls the arms together to lock as applied to claims 10 and 11, the shaft can be angularly repositioned relative to the axis of the handle through at least 60 degrees in one direction or at least 120 degrees in at least one direction as applied to claims 14 and 15, the

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attachment means is hand operable by turning the connector as applied to claim 16, and the shaft is rotatable 360 degrees relative to the receiving member as applied to claims 21, 23, 25, and 27, in light of the teachings of Cline, in order to provide better incremental adjustment of the shaft relative to the handle.

4. **Claims 1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cayo (3,408,676) in view of Cline (365,329).

Regarding claims 1 and 12, Cayo teaches a handle **7**, shaft **3**, functional element **1**, and flexure joint **5**.

Cayo teaches the invention cited with the exception of having a spherical member (or attachment means as recited in claim 12), a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position relative to the receiving member.

Cline teaches a handle **H** having a first end and a second end, a shaft **I** having a first end and a second end, a functional element (attached to threads) secured to the second end of the shaft **I**, a flexural joint **D** interposed between and connecting the second end of the handle **H** and the first end of the shaft **I**, which includes a spherical member (or attachment means) **F**, a receiving member **E** configured to maintain and selectively engage the spherical member **F**, and a connector **G** in communication with the receiving member **E** for releasably locking the spherical member **F** in position as between a first locked position and a second locked position relative to the receiving member **E**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Cayo with a spherical member (or attachment means), a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector in communication with the receiving member for releasably locking the spherical member in position as between a first locked position and a second locked position relative to the receiving member, in light of the teachings of Cline, in order to provide better incremental adjustment of the shaft relative to the handle.

Regarding claims 2 and 13, Cayo teaches that the tube receiving frame (the frame which holds 1) is rotatably secured to the second end of the shaft 3.

Regarding claims 3-11 and 14-28, Cline teaches the particulars of the flexural joint (or attachment means) including: that the spherical member F is connected to the first end of the shaft I and the receiving member E is connected to the second end of the handle H as applied to claim 3, the spherical member F is connected to the second end of the handle H via C and the receiving member E is connected to the first end of the shaft I via F and J as applied to claim 4, the connector G is hand operable for locking and releasing the spherical member F as applied to claims 5, 17-20, 22, 24, 26, and 28, the spherical member F has a radius, the receiving member E has first and second arms B,C, the first arm B has an inner surface facing the second arm C and defines a depression having a circular periphery on the inner surface, the depression has a radius which is smaller than the radius of the spherical member F, and the spherical member F is sandwiched between the first and second arms B,C and centered within the depression through the first flange as applied to claims 6 and 7, the depression in the first arm B is an aperture (for G) extending completely through the first arm B as applied to claims 8 and 9, the connector G

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has a proximal end and a distal end with the distal end, with the distal end slidably extending through a bore in one arm **B** and threadably engaging the other arm **C** so as to prevent passage of the connector **G**, completely through the bore, whereby tightening of the connector pulls the arms together to lock as applied to claims 10 and 11, the shaft **I** can be angularly repositioned relative to the axis of the handle **H** through at least 60 degrees in one direction or at least 120 degrees in at least one direction as applied to claims 14 and 15, the attachment means is hand operable by turning the connector **G** as applied to claim 16, and the shaft **I** is rotatable 360 degrees relative to the receiving member **E** as applied to claims 21, 23, 25, and 27.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Cayo with the particulars of the flexural joint (or attachment means) including: that the spherical member is connected to the first end of the shaft and the receiving member is connected to the second end of the handle as applied to claim 3, the spherical member is connected to the second end of the handle and the receiving member is connected to the first end of the shaft as applied to claim 4, the connector is hand operable for locking and releasing the spherical member as applied to claims 5, 17-20, 22, 24, 26, and 28, the spherical member has a radius, the receiving member has first and second arms, the first arm has an inner surface facing the second arm and defines a depression having a circular periphery on the inner surface, the depression has a radius which is smaller than the radius of the spherical member, and the spherical member is sandwiched between the first and second arms and centered within the depression through the first flange as applied to claims 6 and 7, the depression in the first arm is an aperture extending completely through the first arm as applied to claims 8 and 9, the connector has a proximal end and a distal end with the distal end, with the

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distal end slidingly extending through a bore in one arm and threadably engaging the other arm so as to prevent passage of the connector, completely through the bore, whereby tightening of the connector pulls the arms together to lock as applied to claims 10 and 11, the shaft can be angularly repositioned relative to the axis of the handle through at least 60 degrees in one direction or at least 120 degrees in at least one direction as applied to claims 14 and 15, the attachment means is hand operable by turning the connector as applied to claim 16, and the shaft is rotatable 360 degrees relative to the receiving member as applied to claims 21, 23, 25, and 27, in light of the teachings of Cline, in order to provide better incremental adjustment of the shaft relative to the handle.

Response to Arguments

5. Applicant's arguments with respect to claims 12-16 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments in the appeal brief filed 12/30/03 have been fully considered but they are not persuasive.

7. Applicant has stated in the appeal brief that the limitation "attachment means interposed between and connecting the second end of the handle and the first end of the shaft which is configured to selectively position the functional element relative to the handle" invokes 35 U.S.C. 112 6th paragraph (the paragraph bridging pages 5 and 6 of the appeal brief). Applicant states that the structure disclosed in the application is a flexural joint which includes a spherical member or its equivalent, a receiving member configured and arranged to maintain and selectively engage the spherical member, and a connector (page 7, first full paragraph of the

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appeal brief). It is noted however, that Cline clearly teaches the claimed attachment means because Cline shows a flexural joint which includes a spherical member **F**, a receiving member **D** configured and arranged to maintain and selectively engage the spherical member **F**, and a connector **G**.

8. Applicant argues that Cline does not have any disclosure as to whether the attachment can be locked so as to prevent movement about the single axis. It is noted however, that Cline clearly teaches a connector **G** that can be tightened or loosened so as to prevent movement of the spherical member **F**. Compare the figure of Cline to fig. 1 of applicant's drawings which both show a spherical member and connectors.

9. Applicant argues that Cline does not allow repositioning of the functional element relevant to the handle in two degrees of freedom. However looking at the figure of Cline it is clear that the shaft **I** is able to move into and out of the page and clockwise and counterclockwise looking at the figure.

10. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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11. Applicant argues that there is no motivation to combine Cline with either Cayo or Ampian. However, the spherical member **F** of Cline provides a simple design that allows multiple degrees of freedom of the handle **H** with respect to the shaft **I**.

Contact Information

12. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for regular

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communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

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April 1, 2004



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